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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,756

08/26/2003

Scott C. Seely

SEE 2.2

3728

37190

7590

11/30/2005

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EXAMINER

ABDELWAHED, ALI F

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,756

Applicant(s)

SEELY, SCOTT C.

Examiner

Ali Abdelwahed

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2003001510 A to Sugiyama.

Sugiyama discloses a container (1) having a hollow body (see fig. 2), an open end, and an opposite closed end (see fig. 2), wherein the open end comprises a magnet (5) around the periphery thereof (see fig. 2). Furthermore, given that the Sugiyama reference discloses all of the claimed structural limitations of the above claims, the Sugiyama reference therefore is assumed to be capable of performing all of the claimed functions of the above claims.

Claims 1, 2, 4, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11058112 A to Aoyama et al.

Aoyama et al. discloses a container (5) having a hollow body (see fig.1), an open end (6), and an opposite closed end (see fig.1), wherein the open end comprises a ring magnet (8) attached in a groove extending around the periphery thereof (see fig.1). Furthermore, given that the Aoyama et al. reference discloses all of the claimed

structural limitations of the above claims, the Aoyama et al. reference therefore is assumed to be capable of performing all of the claimed functions of the above claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2004017278 A to Kitamura in view of U.S. Patent No. 5,087,158 to Devine.

Kitamura discloses a container (2) having a hollow body (see figs. 5, 6), an open end (defined by reference # 7), and an opposite closed end (defined by reference # 2c), wherein the open end comprises a ring magnet (1) around the periphery thereof (see fig. 3). However, Kitamura fails to teach the closed end comprises a cap that fits snugly onto the opposite end that is effectively closed. Nevertheless, Devine teaches a container (10) for collecting drilling debris produced by a hand drill, wherein the container comprises a cap (12) that fits snugly and effectively closes the second end (see figs. 1, 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Kitamura, in view of Devine, such that it would provide the container of Kitamura with the concept of having a cap that fits snugly and effectively closes the second end for the purpose of preventing the metal shavings from falling out of the second end of the container.

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Furthermore, given that the Kitamura and Devine references disclose all of the claimed structural limitations of the above claims, the Kitamura and Devine references therefore are assumed to be capable of performing all of the claimed functions of the above claims.

Response to Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

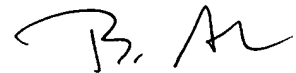
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA

AA

11/17/2005



BOYER D. ASHLEY
PRIMARY EXAMINER